

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C. 20436

SANCTION FOR BREACH OF ADMINISTRATIVE  
PROTECTIVE ORDER

AGENCY: U.S. International Trade Commission

ACTION: Sanction for breaches of Commission administrative protective order.

SUMMARY: Notice is hereby given of the sanction imposed by the Commission for the breach of the administrative protective order ("APO") issued in *Certain Plasma Display Panels and Products Containing Same*, Inv. No. 337-TA-445. The Commission determined to adopt the recommendation of the presiding administrative law judge (ALJ) that the firm of Morrison & Foerster be publically reprimanded for institutional problems at the firm in its handling of confidential business information obtained under administrative protective orders (APOs).

FOR FURTHER INFORMATION CONTACT: Jean H. Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone 202-205-3104. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission can also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 22, 2001, based on a complaint filed by the Board of Trustees of the University of Illinois of Urbana, IL, and Competitive Technologies Inc. of Fairfield, CT. The respondents named in the investigation were Fujitsu Ltd., Fujitsu General Ltd., Fujitsu General America Corp., Fujitsu Microelectronic, Inc., and Fujitsu Hitachi Plasma Display Ltd. (collectively, "Fujitsu"). Complainants alleged that Fujitsu violated section 337 of the Tariff Act of 1930 by importing into the United States, selling for importation, and/or selling within the United States after importation certain plasma display panels and products containing same that infringe certain claims of U.S. Letters Patent Nos. 4,866,349 and 5,081,400. 66 *Fed. Reg.* 6668 (Jan.22, 2001). The Commission terminated the investigation based on the withdrawal of the complaint on July 31, 2001. 66 *Fed. Reg.* 40722. (Aug. 3 2001).

On May 8, 2001, the presiding ALJ issued Order No. 15 imposing sanctions on Fujitsu and its attorneys for breaching the APO issued in the investigation. She also recommended that the Commission publicly reprimand the law firm that represented Fujitsu, Morrison & Forester, LLP. The Commission has adopted the ALJ's recommendation.

Attorneys at Morrison & Forester unintentionally disseminated sensitive confidential business information (CBI) belonging to complainants to seven employees of respondent Fujitsu. One of those employees actually read the CBI and further disseminated the CBI to his supervisor. The latter two employees are employed in positions in which they could use the CBI to complainants' detriment. The ALJ found that the disclosure stemmed in part from institutional problems with Morrison & Foresters' handling of CBI, as evidenced by the fact that five Morrison & Forester attorneys were involved in the disclosure.

This is the second breach within a two year period of an APO issued in a section 337 investigation by attorneys with the firm of Morrison and Foerster. The earlier breach occurred in Inv. No. 337-TA-419, *Certain Excimer Laser Systems for Vision Correction Surgery and Components Thereof and Methods for Performing Such Surgery*, Inv. No. 337-TA-419, Notice of June 4, 1999.

Morrison & Foerster is very experienced in Commission practice. However, the current breach and the recent prior breach demonstrate a disturbing and unacceptable pattern of failure to safeguard information released under APO. CBI received from private parties plays an important role in Commission investigations. The Commission's ability to obtain such information depends on the confidence of the submitting parties that their confidential information will be protected.

The authority for this action is conferred by section 337 (n) of the Tariff Act of 1930, 19 U.S.C. § 1337(n) and by section 201.15 (a) of the Commission's Rules of Practice and procedure (19 C.F.R. § 201.15 (a)).

By order of the Commission.

Marilyn R. Abbott  
Acting Secretary

Issued: February 13, 2002